

Docket No. 219028US0CONT

IN RE APPLICATION OF: Hideaki SAKAI, et al.

SERIAL NO: 10/083,387

FILED: February 27, 2002

FOR: PROCESS FOR PRODUCING FRIED INSTANT NOODLES



ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

Transmitted herewith is an **AMENDMENT AND REQUEST FOR RECONSIDERATION** w. "Marked-Up Claims" Page in the above-identified application.

- ☐ No additional fee is required
- ☐ Small entity status of this application under 37 C.F.R. §1.9 and §1.27 is claimed.
- ☒ Additional documents filed herewith: REQUEST FOR ONE MONTH EXTENSION OF TIME UNDER 37 CFR 1.136; (1) Sheet of Color Photographs-2 pictures

The Fee has been calculated as shown below:

CLAIMS	CLAIMS REMAINING		HIGHEST NUMBER PREVIOUSLY PAID	NO. EXTRA CLAIMS	RATE	CALCULATIONS
TOTAL	22	MINUS	20	2	x \$18 =	\$36.00
INDEPENDENT	2	MINUS	3	0	x \$84 =	\$0.00
		<input type="checkbox"/> MULTIPLE DEPENDENT CLAIMS			+ \$280 =	\$0.00
		TOTAL OF ABOVE CALCULATIONS				\$36.00
		<input type="checkbox"/> Reduction by 50% for filing by Small Entity				\$0.00
		<input type="checkbox"/> Recordation of Assignment			+ \$40 =	\$0.00
		TOTAL				\$36.00

- ☒ A check in the amount of **\$146.00** is attached.
- ☒ Please charge any additional Fees for the papers being filed herewith and for which no check is enclosed herewith, or credit any overpayment to deposit Account No. 15-0030. A duplicate copy of this sheet is enclosed.
- ☒ If these papers are not considered timely filed by the Patent and Trademark Office, then a petition is hereby made under 37 C.F.R. §1.136, and any additional fees required under 37 C.F.R. §1.136 for any necessary extension of time may be charged to Deposit Account No. 15-0030. A duplicate copy of this sheet is enclosed.



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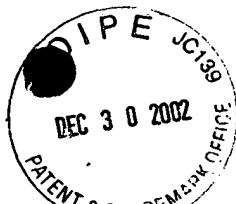
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

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SERIAL NO.: 10/083,387

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FOR: PROCESS FOR PRODUCING
FRIED INSTANT NOODLES

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: GROUP ART UNIT: 1761

: EXAMINER: TRAN, Lien T.

:

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TO 1700 MAIL ROOM

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AMENDMENT AND REQUEST FOR RECONSIDERATION

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

Responsive to the outstanding Official Action of August 28, 2002, reconsideration of the above-identified application is respectfully requested via the following amendment and remarks:

IN THE CLAIMS

A¹ --1. (Amended) A method for producing fried instant noodles, comprising heating noodles in an oil/fat composition comprising at least 50 weight % of diglycerides, wherein upon reconstitution of said fried instant noodles with water, said noodles have a smooth structure.

Please add new Claims 21 and 22 as follows:

A² --21. (New) The method of claim 1, wherein said fried instant noodles, upon reconstitution with water, have a very slow tendency or a substantially slow tendency to get soggy.

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22. The method of claim 1, wherein said heating results in dehydration of said noodles.

SUPPORT FOR THE AMENDMENT

Support for the amendment to claim 1 is found on page 2, lines 30-31 of the specification. Support for claim 21 is found on page 8, lines 16-21 of the specification. Support for claim 22 is found on page 1, line 12 of the specification. No new matter would be added to this application by entry of this amendment.

Upon entry of this amendment, Claims 1-22 will now be active in this application.

REQUEST FOR RECONSIDERATION

The present invention is directed to a method of producing fried instant noodles, and fried instant noodles obtained by such a method.

Fried instant noodles are generally produced by mixing and kneading raw materials into a dough, forming dough into noodle strips, steam-heating noodles to gelatinize starch in the noodle strips and then frying the steam-heated noodle strips (page 1, lines 8-11 of the specification). In the frying step, the gelatinized noodle strips are dehydrated in a short time, providing the dried noodles with a quick reconstitutability (page 1, lines 11-13 of the specification). Problems heretofore observed with fried instant noodles have been poor surface smoothness and a tendency to rapidly become soggy such that noodle-producing processes in which the noodle surface smoothness and the tendency to get soggy are improved are sought.

The present invention addresses this problem by providing a method for producing fried instant noodles comprising heating noodles in an oil/fat composition comprising at least

50 weight % of diglycerides, thereby producing fried instant noodles, which upon reconstitution with water have a smooth structure. Such a method of fried instant noodles are nowhere disclosed or suggested in the cited prior art of record.

The rejection of Claims 1-7 and 20 under 35 U.S.C. § 102(e) over Gotoh et al. and of Claims 8-19 under 35 U.S.C. § 103(a) over Gotoh et al. in view of Greene et al. are respectfully traversed.

None of the cited references disclose or suggest the production of fried instant noodles having a smooth structure.

Gotoh et al. describes an edible oil containing 1,3-diglycerides, in an amount of at least 40% by weight and a most preferable amount of at least 50% by weight (column 2, lines 44-49). The reference describes that the oil composition is a liquid general-purpose oil and is expected to be useful as a general-purpose edible oil such as a cooking oil (column 3, lines 11-13). In Example 3, the reference reports the preparation of fried noodles by heating the ingredients of liquid oil, pork, cabbage, bamboo shoot, onion, shiitake mushroom and Chinese noodles in an oil, in a stir-frying method. The reference does not disclose or suggest the preparation of fried **instant** noodles. This is the only disclosure in the reference of noodle preparation, however, such preparation does not describe a method of preparing fried **instant** noodles, insofar as the reference fails to describe frying sufficient to dehydrate gelatinized noodle strips such that the dried noodles have quick reconstitutability.

In contrast the present invention is directed to a method of preparing fried **instant** noodles, which are noodles in which gelatinized noodle strips are subjected to dehydration during frying. A method for producing fried instant noodles is one in which frying dehydrates gelatinized noodle strips, the cited reference fails to disclose a process of preparing fried instant noodles. As the cited reference describes only the preparation of stir-fried noodles,

there is no suggestion of the claimed method or noodles. The claim limitation of the method preparing fried instant noodles is a claim limitation which is simply not found in the cited primary reference and accordingly the claimed invention is not anticipated by the disclosure of this reference.

The preparation of fried instant noodles is described in the secondary reference of Greene at column 1, lines 14-30 which clearly describes the preparation of raw noodles which are steamed to gelatinize followed by **frying in oil resulting in a reduced moisture content**. As the cited references cited by the Examiner clearly teach the difference between the preparation of fried instant noodles as well as stir-fried noodles it is clear that Example 3 of Gotoh et al. fails to anticipate the claimed invention. The difference between fried instant noodles and stir-fried noodles is illustrated in the attached picture in which a round cake is illustrative of instant fried noodles whereas the example therebelow is illustrative of a stir-fried noodle.

Even though Gotoh et al. describes a general-purpose cooking oil which may comprise 50 weight% of diglycerides and Greene et al. describes a method of preparing fried instant noodles, failing to disclose an oil composition comprising at least 50 weight% of diglycerides, the claimed invention is not made obvious by the combination of references as the combination of references fails to disclose or suggest the preparation of fried instant noodles, which upon reconstitution with water have a smooth structure.

As previously discussed, Gotoh et al. fails to disclose or suggest the preparation of fried instant noodles. The only disclosure of the preparation of noodles is the preparation of stir-fried noodles, which are not noodles in which frying results in dehydration of the gelatinized noodle. As such, the reference can make no suggestion of the properties of a fried instant noodle, and accordingly a method in which fried instant noodles are prepared having a

smooth structure are nowhere disclosed or suggested by the reference. Applicants note, that the claims have been amended to recite the presence of a smooth structure of noodles reconstituted from the instant fried noodles prepared by the present method. As the primary reference does not prepare fried instant noodles, there can be no expectation of obtaining fried instant noodles having a smooth structure and accordingly the claimed method is nowhere disclosed or suggested in the primary reference.

The secondary reference of Greene et al. by failing to disclose or suggest an oil composition comprising at least 50 weight% of diglycerides, also cannot suggest a method for the preparation of fried instant noodles having a smooth structure.

As evidence of the production of fried instant noodles having a smooth structure as well as a reduced propensity for sogginess, the Examiner's attention is directed to the data appearing on Table 2 appearing on page 9 of the specification and in particular Examples 1 and Comparative Example 4 in which scanning electron micrograph pictures of the surface and section of a fried instant noodle obtained by the claimed method is compared with a fried instant noodle prepared in rapeseed oil, an oil containing no diglycerides (see Table 1). The data shows for Comparative Example 4, that upon reconstitution with water, the resulting noodle had a rough noodle surface without smoothness and a fast tendency to get soggy, both indicated by a rating of "D".

In contrast, Example 1, in which the oil contained 85.7 weight% of diglycerides, was a fried instant noodle, which upon reconstitution with water was possessed of a very smooth noodle surface having a very good surface smoothness as well as having a very slow tendency to get soggy and very good lack of tendency to get soggy. As such, Applicants have demonstrated an unexpected result by producing fried instant noodles in an oil composition comprising at least 50 weight% of diglycerides, the result which is nowhere disclosed or

suggested in the cited references. As the present method is directed to the production of fried instant noodles, which upon reconstitution with water have a smooth surface, the cited prior art cannot disclose or suggest the claimed invention as there is no suggestion of the surface smoothness of a fried instant noodle.

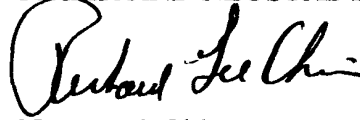
The cited references fail to disclose or suggest the claimed method of preparing a fried instant noodle, which upon reconstitution with water has a smooth surface. Accordingly, the present invention is clearly neither anticipated nor obvious from the cited references and accordingly withdrawal of the rejections under 35 U.S.C. § 102(e) and 35 U.S.C. § 103(a) are respectfully requested.

Applicants note the Examiner's objection to the Abstract which Applicants have provided. Applicants respectfully note that the provided Abstract falls within the rules of not exceeding 150 words in length, and as such, Applicants' Abstract should allow for the printing of such Abstract. As to the form of the Abstract, Applicants note that the limitation of an Abstract to a single paragraph is only a **general** suggestion and not mandated by the rules and accordingly Applicants respectfully submit that the submitted Abstract is appropriate. Applicants further note that 37 C.F.R. § 1.72 the rule regarding the submission of the Abstract does not require the limitation of the Abstract to a single paragraph and only requires that the Abstract may not exceed 150 words in length. Accordingly, the submitted Abstract is believed to be proper and the Examiner is respectfully requested to withdraw her objection.

Applicants submit this application is now in condition for allowance and early notification of such action is earnestly solicited.

Respectfully submitted,

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